IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1093 (S/S) of 2003

Tahir Husain,
Son of Sri Abdul Wahid,
Resident of Raja Club,
Nainital. ……Petitioner.

V e r s u s.

1. State of Uttaranchal, through Secretary, (Madhyamik), Uttaranchal Government, Civil Secretariat, Dehradun.
2. Director of Education, Directorate of Uttaranchal, Education, Dehradun.
3. The Joint Director of Education, Kumaon Mandal, Nainital.
4. District Inspector of School, Nainital.
5. The Principal, Government Higher Secondary School, Uunchocoat, Betalghat, District – Nainital.

……..Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri S.K. Mandal, learned counsel for the petitioner and learned standing counsel for respondents.

By means of this writ petition, the petitioner has prayed for the issue of a writ in the nature of Certiorari quashing the orders dated 16.03.2001 and 13.08.2003 passed by District Inspector of School, Nainital and respondent no. 5 respectively. The petitioner has further prayed for a writ in the nature of Mandamus directing and commanding the respondents to pay Selection Grade from October, 1986 to October, 1996 and arrears of salary to the petitioner from 28.04.1998 to 19.03.2001.

Briefly stated the petitioner is an Assistant Teacher in LT Grade and he was appointed in October 03, 1986 as Assistant Teacher in CT grade. Petitioner has been promoted on

18.11.1996 and was posted at GIC Bhingrara, District Pithoragarh.

After completion of 10 years of service neither the promotion nor the selection grade was given to the petitioner. Petitioner has filed a representation to the Joint Director of Education on 01.05.1998 for demanding the salary for 427 days. Again on 26.10.1998, petitioner has made a representation but the salary was not paid. On 23.10.2001 and 21.04.2003, the petitioner has made a representation for payment of salary and the same was rejected on 13.08.2003.

On 16.03.2001, District Inspector of School has rejected the representation of the petitioner on the ground that the petitioner has unauthorizedly signed attendance register and the petitioner was relieved thereafter. In pursuance to the order dated 16.03.2001 petitioner was relieved from the office of Joint Director, Education, Nainital and joined at Government Higher Secondary School, Uonchacoat, Nainital. The short submission of the petition is that he is entitled for the salary for the period 28.04.1998 to 19.03.2001. However, on representation filed by the petitioner clarifying the dates on which he has worked, respondents are directed to pass appropriate orders regarding salary for the said period.

Counter affidavit has been filed by the respondents. In para 6 of the counter affidavit it is stated that the petitioner remained on leave i.e. from 28.04.1998 to 19.03.2001 on the other hand the petitioner has submitted that during that period petitioner was attached with the office of Joint Director of Education in pursuance to the relieving order passed on 27.04.1998.

In view of the above, the respondents are directed to consider the same within a period of six weeks from the date of filing of certified copy of this order. Any order passed by

District Inspector of School by which the claim of the petitioner has been refused on 16.03.2001 shall be subject to the fresh order passed on the representation of the petitioner within a period of six weeks.

However, on the fresh representation filed by the petitioner, respondents are directed to consider the same and pass suitable order on the petitioner's representation. Petitioner may also approach the Authority concerned for selection grade and the same shall be considered by passing suitable order in accordance with law.

Subject to the aforesaid direction, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

February 23, 2006
SKSharma